

## HOUSE BILL NO. 351

INTRODUCED BY BUTCHER, TESTER, L. JONES, BARRETT, MALCOLM, STAHL, MENDENHALL,  
WAITSCHIES, ROSS, STOKER, LAMBERT, BRUEGGEMAN, WITT, BLACK, KLOCK, PETERSON, WARD,  
ROBERTS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND  
CONSERVATION TO EXPLAIN THE REQUIREMENTS OF FIXING VALUES OF IMPROVEMENTS BY  
ARBITRATION; REQUIRING A LESSEE TO PROVIDE A LIST OF IMPROVEMENTS AND THEIR REASONABLE  
VALUE PRIOR TO RENEWAL OF A LEASE AND REQUIRING THAT THE INFORMATION BE PROVIDED TO  
A PARTY REQUESTING TO BID ON THE LEASE; CHANGING COURT VENUE FOR CONTESTING VALUES;  
AMENDING SECTIONS 77-6-302 AND 77-6-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 77-6-302, MCA, is amended to read:

**"77-6-302. Compensation for improvements -- actual costs.** (1) PRIOR TO RENEWAL OF A LEASE, THE  
DEPARTMENT SHALL REQUEST FROM THE LESSEE A LISTING OF IMPROVEMENTS ON THE LAND ASSOCIATED WITH THE  
LEASE, INCLUDING THE REASONABLE VALUE OF THE IMPROVEMENTS. THIS INFORMATION MUST BE PROVIDED TO ANY  
PARTY REQUESTING TO BID ON THE LEASE. When another person becomes the lessee of the lands, the person shall  
pay to the former lessee the reasonable value of the improvements. The reasonable value may not be less than  
the full market value of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former  
lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value must  
be ascertained and fixed as provided in 77-6-306. The former lessee shall initiate this process within 60 days  
of notification from the department that there is a new lessee. The department notification must include an  
explanation of the requirements of 77-6-306. Failure to initiate the process within this time period results in all  
improvements becoming the property of the state.

(3) Upon the termination of a lease, the department may grant a license to the former lessee to remove  
the movable improvements from the land. Upon authorization, the movable improvements must be removed  
within 60 days or they become the property of the state unless the department for good cause grants additional

time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease."

**Section 2.** Section 77-6-306, MCA, is amended to read:

**"77-6-306. Arbitrators to fix value of improvements.** (1) If the owner of any improvements on state lands of the type authorized by law at the time they were placed on state lands desires to sell these improvements to the new lessee and they are unable to agree on the value of the improvements pursuant to 77-6-302, the value must be ascertained and fixed by three arbitrators, one of whom is appointed by the owner of the improvements, one by the new lessee, and the third by the two appointed arbitrators. If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the director of the department, the director may appoint an arbitrator for that party. An arbitrator appointed by the director has the same duties and powers as if appointed by one of the parties. The value of the improvements must be ascertained and fixed pursuant to 77-6-302.

(2) The reasonable compensation that the arbitrators may fix for their services must be paid in equal shares by the owner of the improvements and the new lessee.

(3) The value of the improvements ascertained and fixed is binding on both parties. If either party is dissatisfied with the valuation, the party may within 10 days appeal from the decision to the department. The department shall examine the records pertaining to the costs of the improvements, and except as provided in subsection (4), its decision is final. The department shall charge and collect the actual cost of the reexamination to the owner and the new lessee in the proportion as, in its judgment, justice may demand.

(4) If either party is dissatisfied with the valuation fixed by the department, the party may within 30 days after receipt of the department's decision petition the district court in the county in which the majority of the state land is located ~~or the district court of Lewis and Clark County for judicial review of the decision~~ FOR JUDICIAL REVIEW OF THE DECISION."

**NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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